REMARKS

Claims 1-25, 27, 29, 31 and 33-36 are pending in the present application. Claims 1, 7, 13 and 19 are independent claims.

Reply to Examiner's Response to Arguments

Since the Examiner has maintained the prior rejections and has provided arguments in support of this position, Applicant will address the Examiner's response first. Applicant's position as expressed in the response filed on November 26, 2007 is that automatic suppression of "silence frames" as presently claimed cannot read upon the predetermined, fixed rate data frame dropping taught by Yao. In other words, Yao does not take into account whether any particular frame is a silence frame, but rather simply drops frames in accordance with the predetermined, fixed rate.

In the Examiner's response to arguments, the Examiner has asserted that "[o]ne having ordinary skill in the art would recognize improving channel quality and latency would be possible with/by determining number of silence frames and Yao clearly discloses that dropping silence frames at rate of 1 frame dropped per hundred frames" (See Page 2 of the Office Action). However, while Yao indeed counts frames to determine which hundredth frame to drop, these frames are not necessarily silence frames.

The Examiner's rationale related to what one of ordinary skill in the art would recognize (i.e., with regard to how to modify Yao to achieve claimed invention) is facially inappropriate in a 35 U.S.C. § 102(e) rejection. In a proper 35 U.S.C. § 102 rejection, a single reference must be asserted, without additional references or teachings. Here, however, the Examiner argues that one of ordinary skill in the art would *modify* Yao to achieve the claimed invention. Thus, this rejection cannot satisfy the requirements of 35 U.S.C. § 102 and must be withdrawn.

Further, Applicant submits that the Examiner's rationale is incorrect even if one of skill in the art would be motivated to modify Yao in the manner suggest (which Applicant does not concede). In Yao, frames are dropped with absolutely no consideration as to whether any frame is actually a silent frame. Thus, Yao does not disclose *or suggest* automatically suppressing silence frames. Again, it is not clear how any system that drops frames on a rigid schedule can automatically drop silence frames or any other specific type of frame. Indeed, the Examiner cites to an example from Yao wherein 1 frame out of every 100 frames is dropped. In this example, how can Yao possibly be certain that the dropped frame would be a silence frame? How can Yao possibly be certain that no silence frames were missed out of the 99 consecutive non-dropped frames? The answer is Yao *cannot* be certain in either case, as will be appreciated from a review of Yao.

In view of the above remarks, as well as Applicant's remarks filed in the November 26, 2007 response (hereby incorporated by reference), Applicant requests that the Examiner withdraw the art grounds of rejection related to Yao because Yao cannot disclose or suggestion automatic suppression of silence frames as recited in the independent claims.

Response to Examiner's rejection of claims 33-36

In Applicant's previous response, Applicant added new claims 33-36. Claim 33, for example, further recited the step "determining whether the stream of media includes one or more silence frames between successive media frames" and suppressing silence frames based on this determining step. The Examiner alleges that claim 33 is anticipated by Yao at Columns 10 line 55 – Column 50. However, this section of Yao merely describe different embodiments where frames are dropped at predetermined, fixed rates (e.g., see Col. 10, lines 66-67, Col. 11, lines 16-18, Col. 11, lines 25-27, Col. 11, lines 51-52 of Yao), or at a variable rate (i.e., based on some type of formula) (e.g., see Col. 12, lines 30-31 of Yao). This section of Yao does not determine

8

whether silence frames occur "between successive media frames", nor does this section imply any such teaching.

It is respectfully requested that the Examiner specifically cite the alleged portion of Yao where this teaching is allegedly present, and fully articulate this position, or else the Examiner should withdraw this rejection.

Further, while Applicant's arguments above are directed to claim 33, these arguments apply equally to claim 34-36 because "claims 34-36 are rejected under same scope as ... claim 33" (See Page 6 of the Office Action).

SUMMARY

Since the Examiner has maintained his rejection of claims 1-25, 27, 29, 31 and 33-36 under 35 U.S.C. § 102 as noted above, Applicant once again traverses these rejections. Applicant expressly maintains the reasons from the prior responses to clearly indicate on the record that Applicant has not conceded any of the previous positions relative to the maintained rejections. For brevity, Applicant expressly incorporates the prior arguments presented in the November 26, 2007 response without a literal rendition of those arguments in this response.

For at least the foregoing reasons and the reasons set forth in Applicant's response of November 26, 2007 , it is respectfully submitted that claims 1-25, 27, 29, 31 and 33-36 are distinguishable over the applied art. The remaining dependent claims are allowable at least by virtue of their dependency on the above-identified independent claims. See MPEP § 2143.01. Moreover, these claims recite additional subject matter, which is not suggested by the documents taken either alone or in combination.

Conclusion

In light of the arguments and/or amendments contained herein, Applicant submits that the application is in condition for allowance, for which early action is requested.

Please charge any fees or overpayments that may be due with this response to Deposit Account No. 17-0026.

Respectfully submitted,

Dated : March 19, 2008   By: /Raphael Freiwirth, Reg No. 52,918/

                                          Raphael Freiwirth
                                          Reg. No. 52,918
                                          (858) 651-0777

QUALCOMM Incorporated
Attn: Patent Department
5775 Morehouse Drive
San Diego, California 92121-1714
Telephone: (858) 658-5787
Facsimile: (858) 658-2502